

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NA'IM ABDUL-MATEEN,

Plaintiff,

v.

Case No. 09-CV-13710

THOMAS BELL and JANE DOE,

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF'S
MOTION FOR RELIEF FROM JUDGMENT**

Plaintiff Na'im Abdul-Mateen, a Michigan prisoner proceeding pro se, seeks relief from the court's judgment dismissing his complaint, filed under 42 U.S.C. § 1983. The court finds that the motion is not timely filed and, in the alternative, that the law-of-the-case doctrine bars relief.

Plaintiff filed a § 1983 complaint against the warden of Gus Harrison Correctional Facility in Adrian, Michigan, and an unknown member of the nursing staff, alleging a violation of his rights under the Eighth Amendment. He alleges that Defendants were deliberately indifferent to his medical needs when they assigned him to a top bunk, despite his having an injured knee which required a bottom bunk assignment. He claims that he suffered permanent injury to his knee when he fell while getting down from the upper bunk. Plaintiff also filed a motion to compel Defendant Thomas Bell to respond to interrogatories designed to assist Plaintiff in identifying the unknown nurse. The court referred the matter to United States Magistrate Judge Charles Binder, who issued a Report and Recommendation suggesting that Defendant's motion to dismiss

should be granted and denying the motion to compel. On April 28, 2010, the court issued an “Opinion and Order Denying Plaintiff’s Objections; Accepting and Incorporating Magistrate Judge’s Report and Recommendation; Denying Plaintiff’s Motion to Compel and Granting Defendant Bell’s Motion to Dismiss.” Plaintiff appealed the court’s decision. On January 5, 2011, the Court of Appeals affirmed. *Abdul-Mateen v. Bell*, No. 10-1635 (6th Cir. Jan. 5, 2011).

On September 8, 2011, Plaintiff filed the pending “Motion for Relief from Judgment” under Fed. R. Civ. P. 60(b)(1). He seeks relief from the court’s order dismissing his complaint and denying the motion to compel. Rule 60(b)(1) motions must be brought “no more than a year after the entry of the judgment or order.” Fed. R. Civ. P. 60(c)(1). Plaintiff’s motion is untimely because it was filed over four months after the one-year limitation under Fed. R. Civ. P. 60(c)(1) expired.

Moreover, even if the motion had been timely, relief from judgment is not warranted. Plaintiff seeks relief from judgment on the grounds that (i) the complaint alleged facts sufficient to show that Defendants acted with deliberate indifference to his medical needs; and (ii) his discovery request should have been granted. The law-of-the-case doctrine “generally bars the district court from reconsidering those issues that the court of appeals has already explicitly or implicitly resolved.” *Keith v. Bobby*, 618 F.3d 594, 599 (6th Cir. 2010). The Court of Appeals addressed both of these claims in its decision affirming this court’s judgment. In other words, the claims were explicitly resolved by the Court of Appeals. Therefore, this court may not now reconsider those issues.

Accordingly, IT IS ORDERED that Plaintiff's Motion for Relief from Judgment [Dkt. # 31] is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: September 26, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 26, 2012, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522